***THE HONOURABLE SRI JUSTICE V.V.S.RAO**

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+WRIT PETITION No.8993 OF 2007

% 27-04-2007

Gunnam Babu Rao and another.

...Petitioners

AND

$ The Government of A.P., rep.by its Secretary, Panchayat Raj Department, Secretariat, Hyderabad and others.

...Respondents

! COUNSEL FOR PETITIONERS: Sri N.V.Anantha Krishna.

^ COUNSEL FOR RESPONDENTS: G.P for Panchayat Raj,

Sri M.Prabhakar Rao

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>HEAD NOTE:

? CASES REFERRED:

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8993 OF 2007

DATED 27.04.2007

BETWEEN

Gunnam Babu Rao and another

… Petitioners

AND

The Government of A.P., rep.by its Secretary, Panchayat Raj Department, Secretariat, Hyderabad and others.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8993 OF 2007

ORDER:

The two petitioners initially filed W.P.No.549 of 2007 seeking a writ of Mandamus declaring the action of the respondents in trying to interfere with the longstanding business as illegal and arbitrary. Their case was that they occupied a small piece of land on the road margin in Indrapalem village and carrying out mutton business. The third respondent tried to dispossess them. In the said writ petition, Gram Panchayat filed counter affidavit denying the petitioners' case. The Gram Panchayat also alleged that petitioners did not approach the Gram Panchayat for provision of alternative place. This Court dismissed the writ petition observing that the petitioners may approach the Gram Panchayat for necessary redressal.

After disposal of the above writ petition, alternative accommodation was not provided with the petitioners. Alleging that the third respondent failed to implement undertaking given in the counter affidavit, the petitioners filed the present writ petition praying for the following relief.

> For the reasons stated in the accompanying affidavit the petitioners herein pray that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring the action of the respondents, particularly 3rd respondent in not implementing the averments made in their counter in WP No.549 of 2007 before this Hon'ble Court to provide alternate accommodation and not considering our representation dated 24.03.2007 as illegal, arbitrary, violative of principles of natural justice etc., and consequently direct the respondents to implement the averments made in their counter in WP No.549 of 2007 before this Hon'ble Court and provide alternate accommodation considering our representation dated 24.03.2007 submitted to the 3rd respondent and grant such other just and consequential relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

It is very peculiar that a writ of Mandamus is sought for implementing an averment made in the counter affidavit of the Gram Panchayat in a writ petition, which was dismissed. This shows the ignorance of the petitioners regarding the public law principles. Such writ petitions must be dismissed with exemplary costs. Poverty, penury and helplessness have driven the petitioners to a Lawyer's office, who is expected to be well informed about principles of public law. It is rather sorry state of affairs that the petitioners were not advised properly. Taking this into consideration, this Court declined to make any order for payment of exemplary costs as otherwise this is a fit case, which has to be dismissed by imposing costs of Rs.1,00,000/- for filing such writ petition.

This Court holds that a writ petition for implementation of the averments in the pleadings in a case is misconceived and the writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

27.04.2007.

L.R. Copy be marked.
(By order)
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